

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

TRAVIS SIMONS

VS.

XEROX CORPORATION

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CIVIL ACTION NO. 12-CV-392-SS

*Plaintiff's Motion to Compel Depositions
or to Amend Scheduling Order*

Travis Simons, Plaintiff, requests the Court to order Xerox Corporation, Defendant, to tender certain witnesses for deposition by or before September 10, 2012, or to order that the Scheduling Order in this cause be amended, and would show as follows:

1. On May 21, 2012, Xerox indicated that it could present witnesses for deposition in July or early August, 2012. Consequently, Simons agreed to the Scheduling Order as signed by the Court.
2. Later, Xerox offered to conduct depositions in August or early September, 2012, but not before then.
3. Still later, Xerox reduced the deposition window to the latter half of September, 2012.
4. Now, Xerox is unwilling to conduct depositions until the end of October, 2012.
5. Simons' concern about the timing of depositions is two-fold: first, Xerox appears to be in the mode of delaying its discovery responses as long as possible and providing as little discovery as possible, and second, the Scheduling Order has already imposed September deadlines for amending pleadings and for tendering and responding to settlement offers, and has imposed a discovery deadline of December 7, 2012. Simons seeks to obtain deposition discovery before those deadlines so that he will be better able to tender and

evaluate settlement offers and so that he will have the opportunity to amend his pleadings after (hopefully) obtaining meaningful deposition discovery.

6. Simons seeks to depose one or more representatives of Xerox, and seeks to depose at least two Xerox employees, Marie Nelson and Norma Allsup.
7. Consequently, Simons requests the Court to order Xerox Corporation, Defendant, to tender Xerox Corporation, Marie Nelson, and Norma Allsup for deposition by or before September 10, 2012, or to order that the Scheduling Order in this cause be amended to permit time for amending pleadings and tendering and responding to settlement offers after depositions have been conducted, or to order some combination of a deposition deadline and scheduling amendment.
8. Certificate of Conference: I, the undersigned Bill Malone, Jr., certify that I have conferred with counsel for Xerox in a good-faith attempt to resolve the dispute by agreement, and no agreement has been reached because Xerox will not present its witnesses for deposition before the end of October, 2012, and will not agree to amend the scheduling order.

LAW OFFICES OF BILL MALONE, JR.
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By: 

Bill Malone, Jr., SBN 12877500

ATTORNEYS FOR PLAINTIFF

Certificate of Service

By signing above, I, Bill Malone, Jr., certify service of the foregoing on Monica Lerma by facsimile transmission to 210-447-8036 on August 7, 2012.